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MEMORANDUM

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TO: Docket Control  
FROM: Ernest G. Johnson  
Director  
Utilities Division

EA for EGT

2007 NOV -2 P 2:05

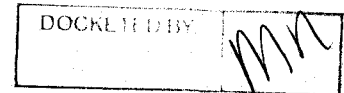
AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

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NOV 02 2007

DATE: November 2, 2007



RE: **UPDATE** - IN THE MATTER OF THE APPLICATION OF ADELPHIA TELECOMMUNICATIONS, INC. FOR CANCELLATION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR RESOLD LONG DISTANCE TELECOMMUNICATION SERVICES (DOCKET NO. T-03828A-05-0353)

IN THE MATTER OF THE APPLICATION OF ADELPHIA TELECOMMUNICATIONS, INC. FOR APPROVAL OF THE SALE OF ASSETS TO TELECOM MANAGEMENT, INC. D/B/A PIONEER TELEPHONE (DOCKET NOS. T-03828A-05-721 AND T-04277A-05-0721)

On May 17, 2005, Adelphia Telecommunications, Inc. ("Adelphia") filed an application to cancel its Certificate of Convenience and Necessity ("CC&N") to provide resold long distance telecommunications services in Arizona. On June 10, 2005, Staff deemed Adelphia's application to be insufficient and sent its First Set of Data Requests to Adelphia.

Adelphia responded to Staff's First Set of Data Requests on June 20, 2005. In its response, Adelphia requested that the Commission stay or suspend Adelphia's application to discontinue long distance services in Arizona until Adelphia was able to determine whether a sale would proceed.

On October 12, 2005, Adelphia filed a letter with the Commission notifying it that the United States Bankruptcy Court of the Southern District of New York approved the transfer of Adelphia's assets to Telecom Management d/b/a Pioneer Telephone ("TMI"). These assets transferred from Adelphia to TMI were Adelphia's customer base. Adelphia stated in its letter to the Commission that its customers would be given an opportunity to switch their service to a carrier other than TMI if they so desired.

On April 4, 2006, Staff sent a letter to Adelphia requesting clarification on how it wished to proceed with the application to cancel its CC&N. On April 25, 2006, Adelphia stated that due to the sale of Adelphia's long distance services and customer base in Arizona to Telecom Management, Inc. d/b/a Pioneer Telephone, Adelphia wanted to confirm that all certificates, tariffs and price lists relating to Adelphia's long distance services had been

cancelled, and that Adelphia has no further obligations regarding the long distance services it previously provided in Arizona.

In its June 1, 2006 Response to the May 16, 2006 Procedural Order in this matter, Staff recommended that Docket Nos. T-03828A-05-0353 and T-03828A-05-0721 be consolidated. Staff believed that consolidation of these dockets will ensure that all the issues concerning Adelphia's transfer of customers and CC&N cancellation will be considered in the appropriate context.

On June 6, 2006, the Hearing Division issued a Procedural Order which consolidated Docket Nos. T-03828A-05-0353, T-03828A-05-0721 and T-04277A-05-0721. On June 7, 2006, Staff mailed its second set of data requests to Adelphia. Adelphia's July 3, 2006 responses to Staff's second set of data requests are as follows:

- Adelphia and TMI informed Adelphia's customers on October 19, 2005 that Adelphia and TMI entered into an asset purchase agreement. Under the agreement, TMI was to acquire the assets of Adelphia and will provide telecommunications services to Adelphia's customers. TMI stated in its customer notice letter that Adelphia's rates and terms and conditions under the customer's existing contract would not change as a result of the transaction. Adelphia's customers would be able to have TMI as their service provider or choose a carrier of their choice.
- Adelphia did not request or collect advances, deposits or prepayments from any Arizona customer. (Adelphia's Response to JFB2-2.)
- Adelphia stated that approximately 200 residential customers were transferred to TMI and management of the transferred customers took place in August of 2005. The last Adelphia customer was transferred to TMI on February 9, 2006 the same date the sale of Adelphia's customer base to TMI closed. The only asset TMI acquired from Adelphia was the customer base. (Adelphia's Response to JFB2-6.)
- Adelphia stated, in its Response to JFB2-17 and JFB2-18, that it had met the slamming and cramming rules of the Commission. Adelphia provided proof that it met the requirement of the Federal Communications Commission's ("FCC") rules for streamlined approval of the transfer of the customer base. A copy of Adelphia's FCC Public Notice Streamlined Pleading Cycle Released December 20, 2005 was filed with the Commission on July 3, 2006.

On July 20, 2006, Adelphia informed Staff that it is unable to respond to Data Requests JFB2- 9 and JFB2-10 concerning TMI and that, as a result of a bankruptcy sale; Adelphia would cease doing business on July 31, 2006. Adelphia also informed Staff that further requests for information should be directed to TMI.

On November 22, 2006, Staff mailed its Third Set of Data Requests to Edward Gothard of Nowalsky, Bronston & Gothard. Mr. Gothard is counsel for Adelphia and TMI. Staff's mailed its Third Set of Data Requests to obtain clarification of information contained in footnotes in the October 12, 2005, letter regarding of the sale of Adelphia's assets to TMI, under the auspices of the Federal Bankruptcy Court. In particular, Staff's concern focused on footnote number 2, which states that Adelphia "... provides resold local and long distance telecommunications services in this State pursuant to authority granted in Docket No.T-03828A-05-0353." As of this date, Mr. Gothard has not provided a written response to Staff's Third Set of Data Requests.

Staff has confirmed that TMI is authorized to provide resold long distance telecommunications services in Arizona pursuant to Decision No. 67594, dated February 15, 2005. TMI is not authorized to charge customers any prepayments, advances, or deposits as stated in Decision No. 67594. TMI's tariff states that it does not charge customers advances or deposits. Prepayments and prepaid calling cards are not listed in Pioneer Telephone's tariff. Adelphia does not exist as a going concern and its application to cancel its CC&N in T-03828A-05-0353 should be approved. Since all of Adelphia's customers in Arizona have been transferred to TMI, Staff recommends that Docket Nos. T-03828A-05-0721 and T-04277A-05-0721 be administratively closed.

EGJ:JFB:red

Originator: John F. Bostwick

Attachment: Original and Fifteen Copies

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